UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1497
8 March 2002

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE 1497th MEETING

Held at the Palais des Nations, Geneva,
On Tuesday, 5 March 2002, at 3 p.m.

Chairman: Mr. DIACONU

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Initial report of Lithuania

ORGANIZATIONAL MATTERS AND METHODS OF WORK (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.02-40642 (E) 070302 110302

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Initial report of Lithuania (CERD/C/369/Add.2; HRI/CORE/1/Add.97; additional information provided by the delegation (document without a symbol, distributed in the meeting room in English only))

1. At the invitation of the Chairman, the members of the delegation of Lithuania took places at the Committee table.

2. Mr. JURGELEVIČIUS (Lithuania) said that Lithuania, a national State which was home to a large number of national and ethnic groups, was an active participant in the effort to eradicate racism. Throughout Lithuanian history, the contribution made by minorities had been considered an indispensable part of the country's heritage. More recently, the Government had endeavoured to ensure that everyone living in the country felt at home and that there should be no racial, national or ethnic discrimination. In 1989 the adoption of the Law on Ethnic Minorities, the first of its kind in central and eastern Europe, had established a framework for relations between national minorities and the State. The Government placed a great deal of importance on guaranteeing the rights of persons from national, ethnic, religious and linguistic minorities, and had established the Department of National Minorities and Lithuanians Living Abroad to deal with various matters related to non-discrimination. Among the goals set out in the Government's Programme for the period from 2001 to 2004 were the provision of State support for the cultural development of national communities and the guaranteeing of the freedom and independence of their cultural activities.

3. The Government had taken steps to address the issue of the Holocaust, for example by ensuring that the subject was covered in university curricula and by developing a Lithuanian national holocaust education programme. In October 2000 an international forum had been held on cultural assets looted during the Holocaust. In addition, Lithuania had handed over more than 300 torahs which had been saved during the Second World War.

4. While it was important to adopt laws against racism, unless they were implemented they were useless, and worse, could even be detrimental to the legal order of the State and to public confidence in its institutions. The Government was taking part in an element of the HURIST (human rights strengthening) project of the United Nations Development Programme (UNDP) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). That project would make it possible to carry out a major evaluation of the human rights situation in the country and to draw up a human rights action plan, which would culminate in the establishment of a human rights monitoring system.

5. In 2000 the Government had adopted a programme for the integration of the Roma people, which also included provisions designed to preserve that community's national character. A Roma community centre had opened in August 2001, and offered pre-school education, supplementary classes for children and language courses.

6. The Government had organized a number of international events, including the International Conference on Dialogue among Civilizations, which had been held in April 2001 and had produced the Vilnius Declaration. Lithuania was determined, in accordance with the impetus provided by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to eradicate any discrimination, marginalization or social exclusion of national, ethnic or racial groups. During its chairmanship of the Committee of Ministers of the Council of Europe, the Lithuanian Government would support the role of the Council of Europe in defining, shaping and enforcing human rights protection in Europe on a non-discriminatory basis.

7. In the two years since the report had been submitted to the Committee, the Seimas (Parliament) had adopted a new Civil Code and a new Criminal Code, and had begun consideration of a new Code of Criminal Procedure. The Criminal Code had also been amended with the addition of new articles that established responsibility for crimes related to racial discrimination. The Code of Civil Procedure had very recently been adopted and would soon enter into force, and a draft Labour Code had been submitted to the Seimas, prohibiting discrimination based on factors unrelated to professional qualifications, such as gender, race, nationality, language, origin, citizenship or religion.

8. Mr. FALL (Country Rapporteur), noting Lithuania's long history of foreign occupation and relatively recent restoration of sovereignty, pointed out that the country was a multi-ethnic, multicultural State with some 109 nationalities. The 1992 Constitution had recognized a number of human rights and had created a democratic form of Government based on a presidential system, with an independent judiciary and Constitutional Court. Lithuania had acceded to the Convention in 1998 and had submitted its initial report, which followed the Committee's guidelines, 10 months after the due date. It was a party to the main international and regional human rights instruments. Under the Constitution, once ratified, such instruments became an integral part of domestic law, and in the event of a conflict they took precedence over national legislation.

9. According to the report, complaints of abuse of office by State and municipal officials, with the exception of judges, were investigated by the Seimas Ombudsmen. The report did not, however, provide information on the number of cases which had actually been raised. Could the Convention be invoked directly before Lithuanian courts? It would also be useful to have more information on the functioning of non-governmental organizations (NGOs) engaged in activities related to human rights. Were human rights taught in Lithuania?

10. The report did not give sufficient information on measures taken to combat racial discrimination. While it provided some statistics on the ethnic composition of the country and mentioned the existence of the Department of National Minorities and Lithuanians Living Abroad, it did not sufficiently describe the department's work, nor did it indicate the origins of non-Lithuanians living in the south and east or why they lived specifically in those regions. Concerning article 3 of the Convention, while the report addressed the question of genocide, it did not specifically mention the problems of racial segregation and apartheid. The provisions making racist actions punishable offences appeared insufficient. However, the adoption of the new laws to which the delegation had referred could remedy that situation. It was regrettable that the incitement to racial hatred was punishable only under administrative law.

11. According to some sources, the Law on Citizenship had been amended in 1997 and had become very restrictive. It reportedly required applicants to have 10 years of residence in the country and to hold a job or have another source of revenue, and established that they must pass language examinations and tests of their knowledge of the Lithuanian Constitution. Was it true that they had to take a solemn oath as well? Were foreigners entitled to own property? Did they have freedom of movement? Certain Lithuanian citizens were forbidden from leaving the country for reasons of State security, a practice that had been highlighted by the Human Rights Committee when it had recently considered the report of Lithuania. That was apparently at variance with article 5, paragraph d (ii) of the Convention. The Committee had received information to the effect that asylum-seekers and refugees were deprived of social rights, including the right to health care.

12. While it was commendable that there were 223 secondary schools where the language of instruction was not Lithuanian, the Committee would also be interested to find out how many elementary schools there were with another language of instruction. While it was understandable for the State party to protect the national language after a long history of occupation, the attention given to linguistic matters was of concern. The report contained no information on the number of Roma people living in Lithuania, and stated that the Government catered for the interests of that ethnic group and of the Karaite and Tartar communities. Could the delegation provide details on the specific mechanisms involved?

13. According to a report from the United States State Department, the Polish minority was the subject of racial discrimination. The Polish parliament had officially objected to such practices. There had also been reports that some foreigners had been held in detention prior to expulsion for nearly two years, well beyond the legally set limit of 30 days, and that a civil court had ruled that such detention was not illegal. Could the delegation comment on those allegations?

14. What concrete measures were being taken by the Government to give effect to the Durban Declaration and Programme of Action? Was it true that the Seimas had adopted a law allowing non-citizens to vote in local elections?

15. Lithuania had not made the declaration called for under article 14 of the Convention, but it had made similar declarations for the Human Rights Committee and for the European Court of Human Rights. The Government could therefore logically be expected to make the declaration recognizing the competence of the Committee to hear complaints. He also encouraged the Government to approve the amendment of article 8 of the Convention.

16. Mr. VALENCIA RODRÍGUEZ thanked the delegation for the information given on the ethnic composition of the country and on its historical and political background, as well as for the depiction of the general framework of standards for the protection of human rights, which equally benefited citizens, foreign nationals and stateless people. While it was commendable that international instruments ratified by Lithuania were incorporated into domestic law and took precedence over national legislation, he would like to know whether the Convention's provisions could be directly invoked in court. As the Government had recognized the competence of the European Court of Human Rights and the Human Rights Committee to hear complaints, there should be no obstacle to its making the optional declaration under article 14 of the Convention.

17. In addition to the provisions of the Constitution and the Law on the Legal Status of Foreigners, which ensured equality of treatment, the Government had adopted other laws and had ratified international human rights instruments. How were their provisions applied, in particular in relation with the Convention? The Government had concluded bilateral agreements on ethnic affairs and migration with neighbouring States, including Ukraine, and had established institutions to deal with minority rights. Could the delegation provide more information on the achievements of such bodies in combating racial discrimination?

18. While the legislative framework contained standards which were consistent with article 4 of the Convention, the delegation should provide more details on the specific provisions which met each requirement under that article, as well as information on the new Criminal Code and other legislative enactments currently in the process of adoption. The Committee would be especially interested to learn about measures aimed at preventing and sanctioning racial discrimination. It would also be of interest to find out the nature of offences committed against foreigners, mentioned in paragraph 60, and the outcome of related investigations.

19. The report gave ample information on the implementation of article 5, but should be complemented with further details on how the rights enumerated in that article were ensured for ethnic minorities. Victims of human rights violations were able to appeal to a court for compensation. Could the delegation give the Committee specific information on such cases? Ethnic minorities could exercise their cultural rights and use their own languages, and benefited from special educational programmes. The participation in the Seimas of representatives of such minorities was very important. Such participation should be maintained and, if possible, extended.

20. Mr. RESHETOV said that, while Lithuania did have a good human rights record, there was no country in the world which did not have problems of some kind and so dialogue was always a useful means of pinpointing failings. For that reason, he considered that it would be in Lithuania's best interests to recognize the competence of the Committee to receive and consider communications under article 14 of the Convention.

21. One of the most fundamental issues which the Committee had to study was the situation of national minorities in Lithuania. The report referred to "nationalities" or "ethnic groups", whereas, in his view, the groups listed in paragraph 55 of the report were really national minorities within the meaning of international and European human rights instruments.

22. Paragraph 40 did not clearly spell out the situation with regard to citizenship, although it was a question of central importance. Similarly, paragraph 82 dealt with a variety of citizens' rights, but it was not at all plain whether the rights in question were enjoyed only by Lithuanian citizens or by everyone.

23. Paragraph 80 set out the grounds for refusing aliens Lithuanian citizenship. States were naturally entitled to establish restrictions, but the latter must be compatible with international norms. He asked, with reference to subparagraph (a), whether people who had been convicted of genocide could live with impunity in Lithuania and one day decide to apply for Lithuanian citizenship. Since international law did not automatically prevail, did a Lithuanian court have to

find that a person had been guilty of crimes against humanity or genocide before their application could be rejected? In the same way, the circle of persons referred to in subparagraph (b) ought to be defined more precisely.

24. Of course the authorities of a country could set limitations to the participation of representatives of national minorities in local administration, but paragraph 20 of the report inferred that aliens had no such rights. Yet paragraph 125 stated that, in some municipalities, a small number of elected representatives were Poles. Were they Poles possessing Lithuanian citizenship? Could Poles without Lithuanian citizenship stand for election? Were exceptions made to allow Poles to participate in local elections and, if so, what were the reasons for those exceptions? Such exceptions might be considered to constitute discrimination against other nationalities.

25. It might be pointed out that unofficial communication between private individuals should never be regulated by laws and regulations and that there was therefore no reason to be specially proud of the state of affairs described in paragraph 114. The report should have been drafted with greater care.

26. Turning to paragraph 60, he expressed the opinion that the fact that criminal cases were brought on the grounds of racial discrimination indicated strict compliance with the Convention rather than disregard for the rights of national minorities. He suspected that the total absence of such cases showed that the Convention was not being implemented with due diligence.

27. It would appear from paragraph 13 that no restrictions whatsoever were placed on the activities of the mass media, yet the European Convention on Human Rights contained a number of limitations to their activities. Paragraph 34, on the other hand, gave a correct description of the situation with regard to the media and so he concluded that paragraph 13 had been carelessly drafted.

28. The numerous points he had made should not be regarded as reproaches, but more as advice regarding the presentation of reports in the future.

29. Mr. SICILIANOS said that, although Lithuania's efforts to protect national minorities were satisfactory as far as compliance with article 7 of the Convention was concerned, a number of issues had still to be addressed.

30. The wording of paragraphs 28 and 37 of the report did not make it clear whether the country subscribed to a monistic or dualistic legal philosophy. He shared Mr. Reshetov's misgivings about the reasons for the state of affairs described in paragraph 60 and recalled that in his own country, Greece, an analogous situation had arisen in the past because victims of racial discrimination had had no access to legal aid and racist offences had not been a crime per se, but could be prosecuted only if a complaint was lodged. He had an inkling that in Lithuania the lack of cases could be ascribed to similar causes.

31. Some paragraphs of the report led him to suspect that foreigners might be subjected to worse treatment than Lithuanian nationals with regard to the right to inherit property, freedom of association, the acquisition of property and consumers' rights. The report gave the impression

that only citizens enjoyed those rights. Although the Convention did permit distinctions to be drawn in respect of the rights of citizens and non-citizens, he requested more information on that point. Lastly he wished to draw attention to the fact that, apparently, there was no comprehensive legislation prohibiting racial discrimination in the different spheres of public authorities' activities.

32. Mr. de GOUTTES said that the submission of an initial report always signified the beginning of a dialogue and he thanked the Lithuanian delegation for presenting a report in keeping with the Committee's guidelines.

33. In his opinion, article 72 of the Lithuanian Criminal Code did not satisfy the requirements of article 4, paragraph (a), of the Convention as far as declaring acts of racism punishable offences was concerned and he had therefore been interested to hear that imminent reforms of the Criminal Code and Civil Code would supplement legislation in that respect. He urged the delegation to supply more details about those reforms. Similarly, article 214 of the Administrative Code, mentioned in paragraph 62 of the report, seemed to be an administrative rather than a penal provision and, for that reason, he wished to know whether that article provided for any penal sanctions against racist organizations.

34. He had also asked himself why no criminal cases involving racism had been brought before the courts and agreed with Mr. Reshetov and Mr. Sicilianos that the wording of paragraph 60 was somewhat ambiguous. He endorsed the view that, in order to facilitate victims' access to criminal justice, racist crimes should be prosecuted automatically. Furthermore he believed that the police and judicial authorities should be made more aware of the importance of giving high priority to the investigation of those offences.

35. According to information supplied by a number of non-governmental organizations (NGOs), the Roma population, numbering some 3,000 persons, was still subjected to certain forms of discrimination in the education, housing and health sectors and suffered from negative stereotyping on the part of the general public. The Committee would therefore be glad to receive supplementary information about the programme designed to integrate the Roma in Lithuanian society, which had been adopted by the Prime Minister in July 2000.

36. Turning to the question of individual communications, he wondered if Lithuania would be prepared to recognize the competence of the Committee to receive and consider such communications under article 14 of the Convention, given that it had done so in respect of individual communications to the Human Rights Committee and that it had accepted the provisions of the European Convention on Human Rights regarding the right of individual petition.

37. As for article 7 of the Convention, he wished to know what measures had been taken or were being contemplated to expand the provision of human rights training offered to the police, army, prison staff, judiciary and any other persons responsible for law enforcement. Such training should also be targeted on the media, since attitudes inimical to racial harmony were evident in some newspapers and periodicals.

38. Lastly he inquired what action the Lithuanian Government intended to take to circulate the text of the Convention and the Committee's concluding observations.

39. Mr. YUTZIS said that the recognition of citizens' ethnic identity was no small matter, because it implied acknowledgement of a different culture, yet it was the best way to take account of the existence of cultural minorities. He wondered whether the absence of complaints to the Ombudsman's Office could be ascribed to a lack of motivation or whether people were simply unaware of the existence of the office. He was sceptical that there were no grounds for filing complaints with the Ombudsman.

40. Paragraph 80 (e) of the report stated that a foreigner could be refused Lithuanian citizenship if he or she was suffering from a particularly serious infectious disease. He wished to know if AIDS came under that heading because, if it did and if the applicant belonged to an ethnic minority, that would amount to double discrimination against that person.

41. The contents of paragraph 97 of the report were obviously related to the right to housing provided for in article 5 of the Convention. He was curious to know why foreigners and stateless persons were not entitled to purchase property, but could only use it. He asked what laws or international agreements prevented foreigners and stateless persons from acquiring or using residential premises. He also wished to know what was meant by the "other laws" mentioned in the last sentence of that paragraph.

42. The words "is permitted" in paragraph 112 worried him, because it was unclear whether that implied that the use of the language of a national minority had to be expressly allowed by the State, or if it was an established right.

43. Paragraph 131 touched on some critical aspects on which he required more information. He challenged the manner in which an ethnic group was defined in the first sentence of that paragraph and asked the delegation to explain the logic behind it, as set out in the following sentence. In his opinion, that definition could be dangerous, depending on who interpreted and applied it.

44. Mr. PILLAI said that the report did not provide sufficient information on the implementation of legislation with respect to the more important articles of the Convention, such as article 5. Given that transnational corporations were wreaking havoc in the developing world in the name of globalization, he was somewhat surprised by the emphasis laid in the report on the importance of the free-market economy (para. 13). How exactly did it impinge on the situation of different groups in Lithuanian society? Referring to the alternative report submitted by the Lithuanian Human Rights Association, he sought clarification regarding the derogatory remarks reportedly published in the monthly newspaper of the Republican Party expressing fears about land being bought up by foreigners. Were there any grounds for such fears? It was important to strike a balance between guaranteeing freedom of expression and protecting the dignity and human rights of different groups in society. How was that achieved in Lithuania? He applauded the support of Lithuania for NGOs active in the field of human rights. Could such NGOs act as third parties in court cases dealing with racial discrimination? He would welcome more information in that connection, particularly regarding the existence of relevant legislation.

45. Mr. THORNBERRY asked to what extent NGOs, civil society and in particular the representatives of minority groups had been involved in drafting the initial report. The Committee welcomed such cooperation. Referring to paragraph 32, he asked why national minorities and Lithuanians living abroad were dealt with by the same government department. Were the Lithuanians in question those living in neighbouring countries or further afield, and were they eligible for government support?

46. Paragraphs 75 et seq. described the rights of citizens to participate in Lithuanian society. What about non-citizens? He recalled that initially, unlike its neighbouring Baltic States, Lithuania had adopted a policy of granting virtually all of its residents citizenship. Had that policy changed of late? The report did not always distinguish clearly between citizens and non-citizens; some elaboration was required. He endorsed Mr. Reshetov's remarks with respect to paragraph 80 (b).

47. He would welcome more information on the Law on the State Language of the Republic of Lithuania and how it related to legislation on minority languages. Noting the statement in paragraph 116 to the effect that the ability of national minorities to foster their cultural identity depended on their teachers and schooling, he sought clarification regarding State responsibility in that respect. With reference to paragraph 119, he asked whether the Government provided support for the schools of minority groups. Although there was no obligation under international law to do so, if support was provided for the schools of some minorities and not others, it could give rise to discrimination issues. He endorsed Mr. Yutzis' concern regarding paragraph 131. He could not accept the idea that the definition of a nationality should depend on the establishment of a national State elsewhere. Also, what were the legal consequences of failing to recognize the ancestors of the Russian, Polish, Jewish and German national minorities as indigenous populations? In general, he was somewhat confused by the different terms used in the report such as "national minorities" and "historic ethnic groups" and requested some clarification.

48. According to paragraph 133, the representatives of minority groups seemed to be involved in programmes to raise awareness about their culture and history. Did they also provide input for history textbooks? Further details on relevant programmes relating to the Roma people would be welcome. In conclusion, he urged Lithuania to adopt the communications procedure under article 14 of the Convention.

49. Mr. ABOUL-NASR said that the wealth of information provided both by the Government and by civil society had enabled him to learn much about the history of Lithuania, especially about events relating to the Second World War. However, attention was focused on only one group of victims of the Nazi genocide, namely the Jews. According to paragraph 9 of the report, the estimated loss of life had been 250,000. Had those all been Jews or had some victims belonged to other minority groups, for instance the Roma? He would also welcome more information regarding the fate of the 250,000 Lithuanians deported to Siberia and beyond the Arctic Circle. Had any of them returned to their homeland?

50. Mr. HERNDL said that in general the report was not sufficiently comprehensive and did not comply with the Committee's general guidelines regarding the form and contents of State party reports. That was particularly evident with respect to legislation and was borne out by the

number of questions asked by Committee members in that respect. Information should be provided on how laws were applied in compliance with the provisions of the Convention, giving specific examples. He recommended that the Government consider making the recommendation under article 14.

51. According to a report by the Office of the United Nations High Commissioner for Refugees, Afghan asylum-seekers were being treated differently from those of other nationalities in Lithuania. Following the events of 11 September, the situation had deteriorated and a group of Afghan nationals was currently being held in detention in total disregard of basic procedural guarantees. He would welcome more information on the matter, specifically the legal grounds for such action.

52. Mr. LINDGREN ALVES said that, as a Brazilian of European origin now living in the United States, a true citizen of the New World, he found it difficult to grasp that a country with a population half that of Rio de Janeiro could have more than 100 different nationalities. Was there any likelihood of those belonging to the larger minority groups ever becoming Lithuanians? Would they always be regarded as foreigners or would they acquire a status similar to the Irish-Americans or Italo-Americans?

53. He shared the concerns expressed about paragraph 131 of the report, particularly since it implied that those belonging to ethnic groups not deemed as "nationalities" might be accorded different treatment. The terminology used in the report relating to the nationality issue certainly warranted further explanation.

54. Mr. AMIR shared the view that many of the legal aspects dealt with in the report required further explanation. However, not enough importance had been attached to the introductory part of the report outlining the history of the State party. It was essential to bear in mind the events that had shaped Lithuanian society over the centuries in order to understand its current problems. The daunting task facing the newly independent republic was how to rebuild everything that had systematically or repeatedly been destroyed in the past. A first essential step was to eliminate the hatred that had caused so many conflicts. So, although much work remained to be done in Lithuania, particularly with regard to legislation, it was to the Government's credit that it had succeeded in the short time since its independence in drafting an initial report and organizing a dialogue with the Committee. Referring to the achievements of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, he stressed the need for the international community to re-establish constructive dialogue.

55. Mr. TANG Chengyuan commended Lithuania for introducing a comprehensive legal system in such a short time since independence. The initial report focused on Lithuania's legislation as it related to the work of the Committee. That was a good starting point; the next report should address how the provisions of the Convention were being implemented and cite problems arising in that context.

56. Concerning the reference by an NGO to a comment by a member of parliament who had said that the country's land should not be sold off to foreigners, he said that that was a racist

utterance which was contrary to the spirit of the Convention. The treatment of Afghan asylum-seekers did not seem to be in line with the Convention's requirements either. The next report should also provide information on the treatment of refugees from Chechnya.

57. Ms. JANUARY-BARDILL joined in praising the State party for creating a comprehensive legal system that addressed the requirements of the Convention, and she commended efforts to integrate various groups in society. A reference was made in paragraph 125 of the report to the representation of national minorities in the Seimas. Could more information be provided about the structural representation of such groups in politics and the economic sector?

58. The NGOs had identified xenophobic attitudes t[illegible]ards persons from other countries, who were sometimes regarded as a threat. It would be useful to involve NGOs when preparing future reports.

59. The delegation of Lithuania withdrew.

ORGANIZATIONAL MATTERS AND METHODS OF WORK (agenda item 4) (continued)

Discussion of the letter from the High Commissioner for Human Rights, Mary Robinson, to the Committee concerning the international community's response to the events of 11 September 2001 (S/RES/1373 (2001); CCPR/C/21/Rev.1/Add.11; CAT/C/XXVII/Misc.7; E/CN.4/1985/4; documents without a symbol)

60. The CHAIRMAN said that the letter from the High Commissioner, dated 11 October 2001, sought the Committee's views on how to ensure that the human rights covered by its mandate maintained high visibility in the process initiated to combat terrorism and solicited suggestions on how to promote areas which might be vulnerable so as to guarantee that the right balance was struck between security and human rights concerns. Copies of a brief note by the Office of the High Commissioner on the human rights perspective of the current situation, General Comment No. 29 of the Human Rights Committee on states of emergency (art. 4) of the International Covenant on Civil and Political Rights, the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, Security Council resolution 1373, adopted on 28 September 2001, and the reply by the Committee against Torture to the High Commissioner's request, had been appended to her letter.

61. He stressed that even when a State took measures to combat terrorism, the prohibition of racial discrimination under the Convention was non-derogable.

62. Mr. HERNDL said that it would be useful to know which other bodies had received the High Commissioner's somewhat ambiguous letter. Did Ms. Robinson want to address the fact that thousands of persons had perished in a crime against humanity as a result of terrorist acts, or was she seeking to ensure the strict application of human rights norms in the response to those events? The main aim seemed to be to find ways of ensuring that "atrocities of such horrific proportions will not be allowed to reoccur". Likewise, the only problem discussed in the attached note on the human rights perspective on the post-September 11 international situation

was the reaction to terrorism. Moreover, Security Council resolution 1373 (2001) dealt not so much with protecting human rights as with responding to terrorist acts. Hence the need to clarify whether the point was to ensure human rights protection despite the restrictive measures that had since been taken or whether it was to eradicate terrorism. He had seen two requests from the International Federation for Human Rights addressed to the Chairman of the Committee calling for urgent procedures on anti-terrorist legislation in the United States, the United Kingdom and Germany. The Committee should give careful consideration to its reply to the High Commissioner's request.

63. Mr. LINDGREN ALVES said that he shared some, but not all, the concerns raised by Mr. Herndl. The Covenant made provision for suspending the validity of certain rights, but a Government which did so must give formal notice thereof to the Secretary-General of the United Nations. Had the Government of the United States taken the necessary steps to that effect?

64. According to The New York Times and The San Francisco Chronicle, Ms. Robinson's main concern when she had addressed the General Assembly had been the treatment of foreigners within the United States, who did not enjoy the full protection of the law even if they were legal residents.

65. He seriously doubted whether anything the Committee did would produce any results. The United States had been the target of a monstrous attack that might even qualify as a crime against humanity. The best place to consider the case would be in the International Criminal Court, which the United States refused to recognize. The Committee should send a message condemning the terrorist attacks and calling for its perpetrators to be brought before an appropriate court to be tried and punished, and it should also do something to respond to the suspension of the rights of foreigners in the United States. In his opinion, Ms. Robinson should be invited to the Committee to explain the matter further.

66. The CHAIRMAN said that Ms. Robinson was not in Geneva, but might be back in a week or two.

67. Mr. ABOUL-NASR said that nothing the Committee did would produce any results unless it exerted political pressure on member States. Any response to the letter must condemn the terrorist attacks of 11 September, but also stress that any reaction must be in conformity with the Charter of the United Nations and the legally binding obligations arising from the relevant international conventions. The statement by a head of State that other countries were either with the United States or against it was unacceptable. What did the Committee have to say, for example, in response to pictures of blindfolded prisoners being brought to Guantanamo, Cuba, or to the indiscriminate arrest of Arabs? Was that not racial discrimination? Was it acceptable as part of the fight against terrorism to drop an atomic bomb on Afghanistan or conduct daily air attacks? There were elements of racial discrimination in those acts that the Committee should address.

68. Mr. SICILIANOS said that Ms. Robinson's letter was well balanced. It termed the attacks of 11 September a crime against humanity, and the appended human rights perspective

on the post-September international situation underscored the need to wage the struggle against terrorism in conformity with human rights norms and the principles of international law. The Committee's reply should be equally balanced.

69. In its reply, the Committee should follow the lead of the Committee against Torture and remain with the framework of its mandate. He suggested focusing on those provisions of the Convention likely to be affected by measures to combat terrorism.

70. Mr. RESHETOV cited the ruling of the European Court of Human Rights in the case Castells v. Spain, relating to a decision by Spanish courts to prohibit the publication of information concerning violations of human rights during the Government's anti-terrorist campaign in the Basque Country. The European Court had found that the prohibition amounted to a violation of article 10 of the European Convention on Human Rights and that, given the public interest of such information, such matters could not be passed over in silence. That case had a direct parallel with the Committee's reply to the High Commissioner's letter.

71. Mr. THORNBERRY said that the Committee's reply might condemn the events of 11 September, suggest that one of the contributions of the Convention could lie in the area of preventing terrorist acts in the future, stress the element of non-discrimination in the response to terrorism and identify what specific areas of human rights were vulnerable.

72. Replying to a question by Mr. Lindgren Alves, he said that he had checked three weeks earlier whether the United States had given notice of derogation from the Covenant. It had not yet done so at that time.

73. Mr. FALL said that the Committee should reply prudently and avoid politicizing the subject. It should condemn the acts of 11 September and its perpetrators and focus on matters under its mandate. But he did not see what the Committee could do to prevent future acts of terrorism.

74. The CHAIRMAN asked Mr. Thornberry, Mr. Siciliano and Mr. Fall to produce, for further discussion, a rough draft of the Committee's reply to the High Commissioner's letter.

The meeting rose at 6 p.m.